

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

**Plaintiff**

v.

\$7,600.00 IN U.S. CURRENCY,

**Defendant.**

CIVIL NO. 18-

VERIFIED COMPLAINT FOR FORFEITURE IN REM

TO THE HONORABLE COURT:

COMES NOW, plaintiff, the United States of America, by and through its undersigned attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico; Hector E. Ramirez-Carbo, Assistant United States Attorney, Chief, Civil Division and Maritza González, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF THE ACTION

This is a civil action in rem brought to enforce the provisions of Title 21, United States Code, Section 841 (a)(1) and Title 21, United States Code, Section 881(a)(6).

DEFENDANT IN REM

The defendant property seized by United States Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") agents consists of: \$7,600.00 in U.S. Currency.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction over an action commenced by the United States pursuant to Title 28, United States Code, Section 1345; over an action for forfeiture pursuant to

Title 28, United States Code, Section 1355; and over this particular action pursuant to Title 21, United States Code, Section 841(a)(1) and Title 21, United States Code, Section 881(a)(6).

This Court has in rem jurisdiction over the defendant currency pursuant to Title 28, United States Code, Section 1355(b)(1)(A) (acts and omissions giving rise to the forfeiture occurred in this district) and Section 1355(b)(1)(B) (the defendant property is found in this district).

Venue is proper in this district pursuant to Title 28, United States Code, Section 1355(b)(1)(A) (acts and omissions giving rise to the forfeiture occurred in this district) and Section 1395 (the defendant property is found in this district).

#### BASIS FOR FORFEITURE

This is a civil action in rem brought to enforce the provisions of Title 31, United States Code, Sections 5317(c)(2) – Prohibited acts A and Title 21, United States Code, Section Sections 881(a)(6) – Forfeitures.

#### FACTS

The facts and circumstances supporting the seizure and forfeiture of the defendant property are contained in the Title 28, United States Code, Section 1746 unsworn declaration of the ATF, TFO, Joel Colon attached hereto, and incorporated herein as if fully stated.

#### CLAIM FOR RELIEF

WHEREFORE, the United States of America prays that a warrant of arrest for the defendant currency be issued; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant currency condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

RESPECTFULLY SUBMITTED,

In San Juan, Puerto Rico, this 9<sup>th</sup> day of October 2018.

ROSA EMILIA RODRIGUEZ-VELEZ  
United States Attorney

s/Héctor E. Ramirez-Carbó  
**Hector E. Ramirez-Carbo**  
Assistant U.S. Attorney  
Chief, Civil Division  
U.S.D.C. # 214902  
# 350 Carlos Chardón Street  
Torre Chardón  
Hato Rey, Puerto Rico 00918  
Tel. (787) 766-5656  
Fax. (787) 771-4050  
Hector.e.ramirez@usdoj.gov

s/Maritza González-Rivera  
**Maritza González-Rivera**  
Assistant U.S. Attorney  
U.S.D.C. #208801  
# 350 Carlos Chardón Street  
Torre Chardón  
Hato Rey, Puerto Rico 00918  
Tel. (787) 766-5656  
Fax. (787) 771 4050  
Maritza.gonzalez@usdoj.gov

VERIFIED DECLARATION

I, Maritza González, Assistant U.S. Attorney, for the District of Puerto Rico, declare under penalty of perjury as provided by Title 28, United States Code, Section 1746, the following:

That the foregoing Complaint is based on reports and information furnished to me by the (ATF); that everything contained therein is true and correct to the best of my knowledge and belief.

Executed in San Juan, Puerto Rico, this 9<sup>th</sup> day of October 2018.

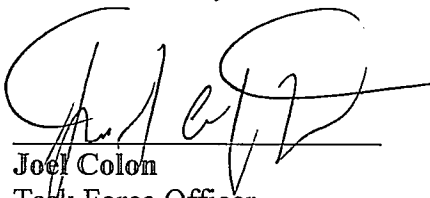
*s/ Maritza González-Rivera*  
**Maritza González-Rivera**  
Assistant U.S. Attorney

VERIFIED DECLARATION

I, Joel Colon, ATF, declare as provided by Title 28, United States Code, Section 1746, the following:

I have read the contents of the foregoing Complaint for Forfeiture in Rem and the attached unsworn declaration thereto, and I find the same to be true and correct to the best of my knowledge and belief. I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, this 9<sup>th</sup> day of October 2018.

  
**Joel Colon**  
Task Force Officer  
Bureau of Alcohol, Tobacco,  
Firearms and Explosives

UNSWORN DECLARATION IN SUPPORT OF FORFEITURE COMPLAINT

INTRODUCTION

Pursuant to Title 28, United States Code, Section 1746, I, Joel Colon, Task Force Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), declare under penalty of perjury that the foregoing is true and correct:

PROFESSIONAL BACKGROUND

I am a Task Force Agent of the ATF, San Juan, Puerto Rico and have been so for the past two years. I am a graduate of the Puerto Rico Police Academy and possess an Associate Degree in Criminal Justice. I have been an Agent of the Puerto Rico Police Department for the last sixteen years, in which I conducted investigations dealing with firearms, drugs, homicides, intelligence and other crimes. Through training, investigations and experience, I have taken part in cases relating to the trafficking of firearms, the use and possession of firearms by persons prohibited by law, and the possession of illegal firearms. The details and information stated herein are a compilation of facts and events investigated by me and other Law Enforcement Officers, who investigated and confirmed their veracity or overseen their development. I have drafted this affidavit for the limited purpose of establishing probable cause violations of law; therefore, I have not included all of the facts of this investigation.

I am familiar with the information contained in this Affidavit, either through personal investigation or through discussions with other law enforcement officers who obtained information through investigation and surveillance, which they in turn reported to me.

ITEM TO BE FORFEITED

This unsworn declaration is offered in support of a civil complaint for the forfeiture of the following seized asset: \$7,600.00 in U.S. Currency.

BASIS FOR FACTS CONTAINED IN THIS UNSWORN DECLARATION

I make this unsworn declaration, on information and belief derived from the following events:

On April 13, 2018, at approximately 3:00 pm, Puerto Rico Police Department (PRPD) Agents from the Bayamon Drug Division executed a state-issued search warrant for a residence located at Flamboyen St. # 128, Ingenio Ward, Toa Baja, P.R. Present at the residence was John S. BAEZ-DAVILA.

The agents identified themselves as police officers, force their entry in and told BAEZ-DAVILA that they had a search warrant for the residence. At this time, BAEZ-DAVILA freely and voluntarily told the Agents that he had a pistol pointing at a blue sofa in the living room and that there was marijuana in the house. PRPD Agent Ivy Gonzales-Ortiz brought K-9 Igol, who has been trained in the recovery of controlled substances, to help them with the search. During the search, the K-9 marked in different areas around the house.

The Agents found in the living room under the blue sofa, one (1) black man purse and inside there was one (1) Glock pistol, model 19 Gen4, 9MM caliber with the serial number VAS526, loaded with thirty (30) rounds of 9MM caliber ammunition, with an adapter to convert it into a fully automatic machinegun. In addition, inside the man purse the Agents found another Glock, 9MM caliber magazine, loaded with twenty nine (29) rounds of 9MM caliber ammunition. There were another two (2) rounds of 9MM caliber ammunition in one of the pockets of the purse.

In the kitchen area, the Agents found in the upper left cabinet, one (1) box of ammunition with thirty eight (38) rounds of 9MM caliber ammunition. Inside the last room on the left, at the end of the hallway the Agents found inside a white in color hamper approximately one (1) ounce of marijuana in a transparent plastic bag.

In the garage area of the house, the space was converted into a room and the Agents found

inside the closet of this area, one (1) black and yellow in color plastic box and inside there were nineteen (19) transparent plastic bags (approximately ten (10) pounds).with marijuana inside. In this same room, on top of a counter, the Agents found one (1) notebook ledger. In different areas among the house, in the kitchen and in a bedroom the Agents found a total of \$ 7,600.00 dollars in cash.

- Ten (10) one-hundred dollar bills.
- One (1) fifty dollar bills.
- Three-hundred twenty three (323) twenty dollars bills.
- Six (6) ten dollars bills.
- Two (2) five dollars bills.
- Twenty (20) one dollars bills.

The residence owner is Wanda Baez-Rivera. Baez-Rivera is the mother of BAEZ-DAVILA. Baez-Rivera does not live in the residence who lives is BAEZ-DAVILA with his wife. Later, on the same date, ATF Agents read BAEZ-DAVILA his Miranda warnings. BAEZ-DAVILA understood his rights but refused to waive his right to remain silent.

A field test was conducted on the controlled substances and the result was positive to marijuana.

The investigation further revealed that the aforementioned firearm seized had a visible modification device causing the firearm to fire more than one (1) round of ammunition by a single function of the trigger.

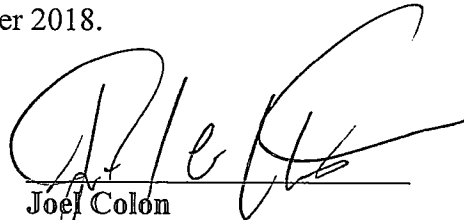
BAEZ-DAVILA was not charged in a State Court. BAEZ-DAVILA has not criminal record. Baez-Rivera presented his income tax forms for 2015-2016, earning an annual salary of \$39,986.00 and work in the Culture Institute of Puerto Rico.

On April 19, 2018, a Federal Grand Jury returned an Indictment charging BAEZ-DAVILA with violations to Title 21, United States Code, Section 841(a)(1)(B) and Title 18, United States Code, Sections 924(c)(1)(A), 924(c)(1)(B)(ii) and 922(o). See United States v. John Baez-Davila, 18-CR-283(DRD).

Based on the above facts, the undersigned believes the seized currency constitutes proceeds derived from the illegal sale of narcotics in violation of Title 21, United States Code, Section 841 (a)(1) - distribution of controlled substances, and are forfeitable pursuant to Title 21, United States Code, Section 881(a)(6).

I declare under penalty of perjury that the above is true and correct to the best of my knowledge and belief, pursuant to Title 28, United States Code, Section 1746.

In San Juan, Puerto Rico, this 9<sup>th</sup> day of October 2018.

A handwritten signature in black ink, appearing to read 'Joel Colon', written over a horizontal line.

**Joel Colon**  
**Task Force Agent**  
Bureau of Alcohol, Tobacco,  
Firearms and Explosives



JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS****UNITED STATES OF AMERICA**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

**Maritza González-Rivera, AUSA, 350 Carlos Chardon Ave, Suite 1201, Hato Rey, PR 00918**

**DEFENDANTS****\$7,600.00 IN U.S. CURRENCY**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |  |                            |                            |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |  | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT**

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION****Title 21, United States Code, Sections 841 and 881(a)(6).**

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE 10/09/2018 SIGNATURE OF ATTORNEY OF RECORD

**s/Maritza González****FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_


**United States District Court *for the* District of Puerto Rico**
**CATEGORY SHEET**

1. Title of Case (Name of first party on each side only)

US v. \$7,600.00 in U.S. Currency,

2. Category in which case belongs: (See Local Rules)

☒ X

ORDINARY CIVIL CASE  
SOCIAL SECURITY  
BANK CASE  
INJUNCTION

CIVIL FORFEITURE

3. Title and number, if any, of related cases (See Local Rules)

4. Has a prior action between the same parties and based on the same claim ever been filed in this Court?

☐ YES

☒ X

NO

5. Is this case required to be heard and determined by a District Court of three judges pursuant to Rule 28 U.S.C. 2284?

☐ YES

☒ X

NO

6. Does this case question the constitutionality of a state statute (FRCP 24)?

☐ YES

☒ X

NO

(Please Print)

USDC ATTORNEY'S ID NO.

USDC # 208801

ATTORNEY'S NAME:

Maritza González-Rivera

MAILING ADDRESS:

TORRE CHARDON, SUITE 1201, 350 CARLOS CHARDON AVE

HATO REY PR

ZIP CODE

00918

TELEPHONE NO.

787-766-5656